IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.129 OF 1988

M/s.Sri Saibaba Enterprises
And Another .. Plaintiff.

Versus

Pravin Chunilal Patel .. Defendant.

Mr.Deepak J.Thakur i/b.M/s.Gordhandas & Fozdar for the plaintiff.
Mr.M.Saurashtri i/b.Shantilal & Co. for the defendant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 3rd JULY, 2007.

P.C.:

1. The learned Advocate appearing for the plaintiffs states that the plaintiffs have not given any instructions to their Advocates for prosecution of the suit. There is a written statement on record inasmuch as there is a cross suit filed by the defendant against the plaintiffs as well. The suit is for permanent injunction restraining the defendant from in any manner using the label mark (Annexure "H") or any other mark deceptively similar

thereto, or the device of Circle with the word "OM" written in the manner specified in the prayer clause (a) of the plaint.

2. There was no order passed in this suit and the plaintiffs, therefore, have not instructed their Advocates to proceed with the matter. This fact is recorded clearly by this Court inasmuch as the matter has appeared in March, 2007 and was adjourned for two weeks. Thereafter, it appeared on 11th April, 2007 and was adjourned for one week for dismissal. Again at the request of plaintiffs' Advocate, on 3rd May, 2007, the matter was adjourned beyond vacation and has, thus, appeared before me today. The plaintiffs are the defendants in the cross suit and the Advocate for the plaintiffs is now requesting for time to file the written statement in that cross suit. Thus, it appears that the plaintiffs are totally negligent and have not bothered for all these years to instruct their Advocate to prosecute the suit and to file written statement in the cross suit. There are no instructions given to the plaintiffs' Advocate and now they were applying for discharge from the proceedings.

3. It would be too late in the day to permit the Advocate to obtain a discharge, more so, when the Advocate was aware that there are no instructions forthcoming for

the last more than three months.

4. In such circumstances, no useful purpose will be served by keeping the suit on the file of this Court. Suit No.129 of 1988 is accordingly dismissed for want of prosecution.

(S.C.Dharmadhikari, J.)